

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

ELMER L. RICHARDSON

CHAPTER 13 CASE NO.:

19-10614-JDW

OBJECTION TO CONFIRMATION OF SECOND AMENDED PLAN

COMES NOW the Chapter 13 Trustee, Locke D. Barkley (the “Trustee”), by and through counsel, after conducting the Section 341(a) Meeting of Creditors, reviewing the Petition, Schedules, and Statement of Financial Affairs, and files this Objection to Confirmation of Second Amended Plan (the “Objection”), and in support thereof states as follows:

1. The Debtor commenced this proceeding by filing a Voluntary Petition on February 12, 2019 (the “Petition Date”). The Debtor filed a proposed Second Amended Chapter 13 Plan (Dkt. #50) (the “Plan”) on June 24, 2019.
2. The Plan fails to comply with 11 U.S.C. § 1325(a)(6) because the Plan is not feasible. The Debtor has failed to fully fund the Plan and is \$12,747.16 delinquent in plan payments through June 2019. Plan payments continue to accrue at the rate of \$5,546.50 monthly thereafter. The failure by the Debtor to fund the Plan demonstrates that the Plan is not feasible and, therefore, cannot be confirmed.
3. The Plan fails to comply with 11 U.S.C. § 1325(a)(1). Section 3.1(a) and (b) of the Plan provides that the ongoing mortgage payments shall be paid beginning in June 2019 to Cenlar and Farm Service Agency (“FSA”). However, the Trustee does not have enough funds on hand to make the disbursements to Cenlar and FSA and the other creditors at confirmation due to the delay in commencement of plan payments and the delinquency in plan payments.

4. The Debtor should timely remit all plan payments due under the Plan prior to the hearing or the case should be dismissed for failure to comply with the proposed Plan.

5. For the reasons set forth herein, the Trustee submits that Confirmation of the Plan should be denied and the case dismissed.

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that upon notice and hearing that this Court enter its order sustaining the Objection. The Trustee prays for other such general and specific relief to which Trustee and this bankruptcy estate may be entitled.

Dated: July 5, 2019.

Respectfully submitted,

**LOCKE D. BARKLEY
CHAPTER 13 TRUSTEE**

BY: /s/ Melanie T. Vardaman
ATTORNEYS FOR TRUSTEE
W. Jeffrey Collier (MSB 10645)
Melanie T. Vardaman (MSB 100392)
6360 I-55 North, Suite 140
Jackson, Miss. 39211
(601) 355-6661
mvardaman@barkley13.com

CERTIFICATE OF SERVICE

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

Dated: July 5, 2019.

/s/ Melanie T. Vardaman
MELANIE T. VARDAMAN